

**Testimony of Charles M. Loveless, Director of Legislation**  
**American Federation of State, County and Municipal Employees (AFSCME)**  
**Before the Committee on Government Reform on the Government Efficiency Act of 2006 and**  
**the Federal Agency Performance Review and Sunset Act of 2005**  
**July 19, 2006**

Good morning, Mr. Chairman and members of the Committee. My name is Charles M. Loveless and I am the Director of Legislation for the American Federation of State, County and Municipal Employees (AFSCME), a union representing 1.4 million employees who work for federal, state and local governments, health care institutions and non-profit agencies.

We strongly oppose H.R. 5766, the Government Efficiency Act and H.R. 3282, the Federal Agency Performance Review and Sunset Act. In the name of improving efficiency, these bills would trample democratic processes and principles. In our view, the sunset commission process is designed to enhance the power of the executive branch over the Congress and to exclude the public from participating in policy-making. Depending upon the bill, this is seen in the composition of the commissions, the way they conduct their business and how the legislative process unfolds once a commission issues its recommendations.

**A Shift of Power Away from the Legislative Branch**

These bills represent a sweeping shift in authority away from the legislative branch which would represent yet a further usurpation of power by the presidency. Excessive power is ceded to the executive branch to decide what our government does and how it will do it. And this shift of power means that it will be much more difficult for the public to have its voice heard in the policy-making process.

Under the bill introduced by Rep. Tiahrt, commissions would be established through appointments made by the President. Clearly, the view of the executive branch will dominate commission recommendations. The fast track procedures for congressional consideration give insufficient time for the Congress to thoroughly consider recommendations. The limit on the ability of members of Congress to offer amendments during floor debates also diminishes the role of Congress in shaping policies.

Executive authority is also strengthened under the bill introduced by Rep. Brady. Because of the President's veto authority, agencies could be abolished even where a majority in both houses of Congress has acted to reauthorize an agency. And because a failure to reauthorize would cause such an extreme outcome, the President would have enormous leverage in shaping the reauthorizing legislation.

For far too long, the legislative branch of our government has failed to adequately exercise its oversight authority over the executive branch. These bills would codify the secondary role in lawmaking that the Congress has recently reserved for itself. If I may, I would like to echo and repeat a comment that former House Speaker Newt Gingrich recently made in reference to how Congress has failed to respond to crises at home and abroad. The former Speaker said that, "it's important to have an informed, independent legislative branch coming to grips with this reality and not sitting around waiting for presidential leadership."

We want to emphasize that Congress has the authority, through the budget and appropriations and authorization processes, to make any changes in agencies and programs that it deems appropriate. It only requires leadership and a consensus-building process that puts the public interest first.

### **Excluding the Public**

We would also like to highlight the absence of any requirements in the Tiahrt bill that commissions hold public hearings or seek public input into their deliberations. Moreover, the fast track procedures leave too little time for the public to become engaged in debates over commission recommendations. Excluding the public from policy-making violates hallmark democratic principles of transparency, openness and accountability.

### **The Experience in the States**

Many states have abolished their own sunset commissions after concluding that the reform experiment was a failure. According to the most recent analysis by the Congressional Research Service, all 50 states have considered sunset programs. Thirteen chose not to establish a sunset program; another thirteen that adopted them later repealed, suspended or allowed them to become inactive; several others substantially modified their sunset programs; and only 18 states continued their programs.

### **Sunset Commissions Are Not Modeled After BRAC**

While proponents argue that sunset commissions are modeled after the Defense Base Closure and Realignment Commission (BRAC), there are important differences. BRAC had a discrete purpose centered on reorganizing or closing excess military bases. Under these bills, a sunset commission could have a much broader scope of responsibility, such as looking at all poverty programs or all health programs. BRAC commissioners were confirmed by the Senate, making them accountable to the Congress and the public. Importantly, BRAC proceedings were open to the public and the Congress.

### **This Legislation will Hurt Working Families**

A number of programs and agencies will no doubt be targeted for elimination. A review of the President's latest budget gives us insights into which education, social service, law enforcement and other programs and agencies that could be abolished. But substantial harm could also be caused by recommendations to change programs and agencies, including changes that eliminate worker protections, weaken enforcement or undermine the mission of programs and agencies through consolidation, block-granting or privatization. For example:

- A commission might not call for abolishing the Occupational Safety and Health Administration, but it could weaken its enforcement mechanisms or establish a moratorium on writing new standards for hazards.
- A commission might not call for the elimination of programs that help pay for the construction of roads and other infrastructure. But there are 60 statutes that have Davis-

Bacon requirements that could be weakened or eliminated. Similarly, collective bargaining rights for transit workers are the result of provisions included in various federal laws that provide funding to state and local governments. These collective bargaining rights could also be eliminated.

- Civil rights protections for beneficiaries and workers are embedded in various laws that authorize programs, including Headstart and the Individuals with Disabilities Education Improvement Act (IDEA).
- A number of federal statutes prohibit employers from retaliating against whistleblowers who report violations of federal laws, such as the Sarbanes-Oxley Act and various environmental laws. We believe these also are at risk.
- The administration has pushed a plan to privatize 850,000 federal employee jobs. The House has rejected its plan because it is too biased in favor of contractors. A sunset commission could give new impetus and legitimacy to the President's plan. In fact, it is not hard to imagine a commission made up of favored contractors who develop a blueprint for dividing up government operations among themselves - an extreme version of political patronage that gives not a second thought to how the public interest is best served.

We are also alarmed that commissions established by either bill could be used to advance proposals to severely cut Medicare and Medicaid and privatize Social Security. These bills are a backdoor attempt to force unpopular and controversial changes in these crucial programs on which tens of millions of Americans rely.

In conclusion, we believe both H.R. 5766 and H.R. 3282 are fundamentally undemocratic and do not serve the public interest. Their passage would shut out the public from participating in important decisions about our government and codify a secondary role for Congress in policy making. In the end, it is the average family and the vulnerable who will suffer the consequences.

In closing, Mr. Chairman, I want to thank you for giving me the opportunity to testify today. I would be pleased to answer any questions you may have.